



CHAPTER 80

An Act respecting the Workmen's Compensation Commission

[Assented to, the 22nd March, 1928]

HIS MAJESTY, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec, enacts as follows:

1. The Revised Statutes, 1925, are amended by re- R. S., c. 275, placing chapter 275 thereof by the following: replaced.

"CHAPTER 275

"AN ACT RESPECTING THE WORKMEN'S COMPENSATION COMMISSION

1. This act may be cited as *Workmen's Compensation Commission Act*. Short title.

"DIVISION I

"COMMISSION

2. A Commission is established, called "Workmen's Compensation Commission", with its head office in the city of Quebec, composed of three members, who shall be appointed by the Lieutenant-Governor in Council, one of whom as president shall receive a salary of ten thousand dollars (\$10,000.00) per annum, and each of the other two a salary of eight thousand dollars (\$8,000.00) per annum. Workmen's Compensation Commission", established.

The commissioners shall attend exclusively to the work of the Commission and to the duties of their office; they shall not engage in any other employment, trade, industry or profession. Exclusive attention of commissioners.

- Annual report. **"3.** The Commission shall make an annual report to the Minister of Public Works and Labour at the date fixed by him.
- Contents of report. Such annual report shall include all work done by the Commission during the year and contain all information respecting the number, nature and seriousness of accidents to workmen happening by reason of or in the course of their work, and the compensation awarded.
- Quorum. **"4.** The quorum of the Commission shall be two members.
- No dissolution by vacancy. **"5.** The Commission shall not be dissolved by reason of the death or resignation of one or more of its members.
- Secretary. **"6.** The Lieutenant-Governor in Council shall appoint a secretary for the Commission. The said secretary shall receive a salary of five thousand dollars (\$5,000.00), per annum.
- Salary.
- Staff. **"7.** The Commission shall be assisted by a staff appointed by the Lieutenant-Governor in Council who shall also fix the salary of each of the members of such staff.
- Duties of sec., and staff. **"8.** The secretary and staff shall perform the duties required of them by the Commission.
- Other duties of secretary. In addition to the duties assigned to him by the Commission, the secretary shall be obliged to assist those applying for compensation under the Workmen's Compensation Act, 1928, (Chap. 274), or under this act, and to represent them before the Commission or the commissioners, as the case may be, without other remuneration than the salary attributed to him.
- Expenses to be borne by Government. **"9.** 1. The salaries of the commissioners and expenses for office accommodation and furniture for the Commission shall be borne by the Government of the Province and be paid out of the consolidated revenue fund.
- Approval of expenses. 2. Such expenses for office accommodation and furniture shall be paid after approval by the Minister of Public Works and Labour.
- Advance authorized. 3. The Lieutenant-Governor in Council may authorize the Provincial Treasurer to advance to the Commission, out of the consolidated revenue fund, such sum as he may determine to defray other expenses not already provided for in the manner prescribed in the following section.
- Comm. accountable. The Commission shall be accountable for the advance so made.

"**10.** 1. Except the salaries and expenses for office accommodation and furniture assumed by the Government under section 9, all expenses incurred through the administering of the said Workmen's Compensation Act and of this act shall be borne by the insurers within the meaning of paragraph 3 of section 2 of the Workmen's Compensation Act, 1928, (Chap. 274), in the manner hereinafter determined. Expenses to be borne by insurers.

The manner of apportioning such expenses among the insurers shall be determined as equitably as possible by the Commission after hearing the interested parties called before it. The method of apportionment determined by the Commission shall take effect as soon as it has been approved by the Lieutenant-Governor in Council and published in the *Quebec Official Gazette*, and it may be changed by the Commission, by following the same formalities. Manner of apportioning expenses.

2. At the expiration of each calendar year the Commission, after determining the amount of such expenses, shall apportion them in the manner prescribed by subsection 1 of this section. When apportionment made.

3. The apportionment so made by the Commission shall be final, except in the case of a mistake which the Commission itself acknowledges, and any extract therefrom, certified according to the special rules, shall be proof thereof for all legal purposes. Apportionment final.

4. The recovery of the share owing by each person bound under the apportionment may be effected by common law, in the name of the Commission, before any court of competent jurisdiction. The Commission shall not, however, be bound to sue such persons in default; and any deficit owing through the failure of any of them may be added to the next apportionment. Action to recover.

5. Every insurer within the meaning of paragraph 3 of section 2 of the said Workmen's Compensation Act who, after being required thereto by the Commission, neglects for thirty days to pay the amount which he owes under the apportionment, shall be liable to suffer the cancellation of the license which authorizes him to effect the insurance provided for by the said Workmen's Compensation Act, or that of the license allowing him to be his own insurer. Insurer neglecting to pay. Cancellation of license.

"DIVISION II

"JURISDICTION

"**11.** The Commission shall be the only authority having jurisdiction to interpret, administer, apply and carry out the Workmen's Compensation Act, 1928, (Chap. 274) and this act. Jurisdiction of Commission.

- Jurisdiction of Commission. "12. Without restricting the generality of the provisions of section 11, the Commission shall have jurisdiction, to the exclusion of every other tribunal, and without appeal, in all matters connected with the awarding of the allowances and compensation provided by the said Workmen's Compensation Act.
- Power of supervision, etc. to prevent accidents. "13. The Commission may, moreover, on complaint to it or on its own initiative, exercise a power of supervision, control and direction over the establishments subjected to the Workmen's Compensation Act, with a view to preventing workmen's accidents and, for such purpose, it shall itself have the right to visit and inspect such establishments or cause them to be visited and inspected by a person named by it, and it may order the owners and employers to take such precautionary measures as it deems proper. Such orders of the Commission shall be carried out, under the penalty, for default so to do, enacted by section 32 of the said Workmen's Compensation Act.
- Visit and inspection. Precautionary measures. Penalty. Prosecution. Such penalty shall be prosecuted for in accordance with section 33 of the said act.
- Rehabilitation. "14. It shall also be the duty of the Commission to promote the rehabilitation of injured workmen and to take such measures as it may deem proper to aid in the re-establishment of such workmen in industry in the Province.
- Special rules. "15. The Commission may adopt and amend, from time to time, special rules for its government, for the conduct of its affairs and for the carrying out of the said Workmen's Compensation Act and the present act.
- Coming into force of same. Such special rules shall come into force after having been approved by the Lieutenant-Governor in Council and promulgated by publication on the *Quebec Official Gazette*.
- Special investigations. "16. The Commission is empowered, at any time, to itself make or cause to be made by one of the commissioners such special investigations as it may deem useful for the carrying out of the said Workmen's Compensation Act and of this act.
- Revision of award. "17. Whenever it has been established, to the satisfaction of the Commission, that any allowance, compensation or rent has been granted or refused through one of the practices mentioned in section 31 of the Workmen's Compensation Act, 1928, (Chap. 274), the Commission may, at any time, when requested or on its own initiative, revise its award.

"18. 1. As regards the summoning and examining of the interested parties and witnesses, as well as the examining and fying of exhibits and documents, the Commission and the commissioner conducting an investigation shall have the same powers as the Superior Court. Powers of investigation.

2. The Commission shall not be obliged to follow the ordinary rules of evidence in civil matters, and may, by all legal means which it deems best, inquire into the matters the investigation whereof is attributed to it. Rules not obligatory.

3. Every service required in the carrying out of this act shall be made in the manner determined by the special rules, and, if there be no ruling therefor, by a bailiff of the Superior Court. Service.

"19. The Commission may require any physician, who has attended a workman consequent upon the accident he has suffered, to give it such information as it may deem useful. The physician shall be obliged, saving however the case of professional secrecy, to furnish such information under penalty of losing the right to recover the cost of his services. Information from physician. Penalty for refusing.

"20. 1. At any time after receiving notice of an accident under section 28 of the Workmen's Compensation Act, 1928, (Chap. 274), the Commission may cause the injured person to be examined by one or more physicians selected by the Commission. Medical examination of injured person.

2. Whenever the injured person refuses to submit to such examination, his right to any indemnity shall be suspended until he does submit thereto. Refusal entails suspension of rights.

3. The cost of such examination shall be paid by the Commission and be included in its expenses. Cost of examination.

"21. At any time after receiving the notice mentioned above, the Commission may, on application therefor, order the payment to the injured person or to his representatives, as the case may be, of a provisional weekly allowance until the definite fixing of the compensation to which the injured person may be entitled. Provisional weekly allowance.

"DIVISION III

"PROCEDURE

"22. If an agreement is arrived at between the insurer and employer, on the one part, and the victim or his representatives, as the case may be, on the other part, such agreement, in order to be valid, must be in writing, signed Agreement between parties.

Approval. and attested, and be transmitted to the Commission, the whole in the manner determined by the special rules. After which, if the Commission be satisfied that such agreement expresses the wishes of the parties and is according to the Workmen's Compensation Act, 1928, it may approve it in its award which shall be the final judgment in the matter.

When no disapproval expressed. If, within ten days of its receipt of the written agreement transmitted to it, the Commission has not expressed its disapproval, such agreement shall be deemed to have been approved by it.

Agreement prior to fifteen days after accident, voidable. Any such agreement made prior to the expiration of fifteen days after the date of the accident, or any such agreement which has not been transmitted to the Commission, shall be voidable at the option of the workman or his representative, as the case may be.

Where no agreement is made, etc. **"23.** Failing agreement in accordance with the preceding section, or if the Commission has disapproved of the agreement made, or if the parties fail to agree as to the continuance of payments to be made under an approved agreement, either party may inform the Commission of these facts, and the latter shall itself or through one of its commissioners conduct an investigation, after notice to the parties interested, at the time and place and in the manner determined in accordance with its special rules.

Investigation by Commission.

Award. **"24.** The Commission, after its investigation or on the report of the investigating commissioner, shall render its award, refusing or granting the compensation, allowances and rents for which there may be occasion under the said Workmen's Compensation Act and this act, and shall notify the parties thereof.

Notice.

Application for reconsideration. **"25.** If the award of the Commission was rendered after investigation by one of the commissioners, any of the interested parties may, within thirty days after the date on which the award was rendered, apply for the reconsideration thereof by the Commission. The Commission shall then proceed to a fresh examination of the proof in the record and hear the parties, if it deem it necessary, and may then confirm, amend or annul the award first rendered.

Fresh examination.

Revision of the compensation awarded. **"26.** At the request of the interested parties or on its own initiative, the Commission may, in the two years following its first award or the agreement made in accordance with section 22, in the case of increased or lessened incapacity of the injured person, or of his death as a result of the accident, revise the compensation awarded.

"27. The Commission shall cause registers to be kept ^{Registers.} and preserved of its proceedings, orders and awards, in the manner determined in the special rules. Any copy of said registers, orders and awards certified by one of the ^{Copies au-} commissioners, or by any other officer of the Commission ^{thentic.} designated in the said rules, shall be authentic.

"28. 1. Upon the depositing in the office of the protho-^{Homologation of} notary of the Superior Court of the district in which the employer is domiciled, of an authentic copy of an award ^{award.} of the Commission, the Court may, upon a summary petition of the Commission or of any interested party, homologate the award, which shall become executory as any ^{Executory thereafter.} other judgment. During the judicial holidays or out of ^{Jurisdiction} term, the judge of the Superior Court shall have the same of ^{of judge.} jurisdiction as the Court for the purposes of this section.

2. The award of the Commission shall be executory ^{Delay for} against the employer and against the insurer, fifteen days ^{execution.} after the day on which it was homologated; but execution ^{Notice,} against the insurer must in all cases be preceded by a notice ^{where} of five days to the Commission. ^{against} ^{insurer.}

"29. 1. The awards of the Commission, the revision ^{Awards to} of which has not been applied for in accordance with section ^{be final.} 25 of this act, and those rendered under the said section, shall be final and without appeal.

2. Judgments rendered by the Superior Court homolog-^{Judgments} ating awards of the Commission shall also be final and ^{final.} without appeal.

3. No recourse by way of *certiorari*, prohibition, injunction or *mandamus* shall lie against the proceedings and ^{No certio-} awards of the Commission nor against the Superior Court ^{rari, etc.} in homologating the said awards.

"30. The Commission cannot award any costs on ac-^{No award-} count of the proceedings had before it or in the carrying ^{ing of costs.} out of the Workmen's Compensation Act, 1928, (Chap. 274).

"DIVISION IV

"SPECIAL PROVISIONS

"31. The Commission may sit anywhere in the Prov-^{Sittings.} ince.

"32. When the Commission or a commissioner con-^{Premises.} ducts an investigation at the chief-place of a judicial district, the sheriff shall be bound to furnish it or him with a place to hold the investigation.

Premises.

When such investigation is held in a place where there is a Magistrate's Court, the clerk of such court shall be obliged to allow the Commission or the commissioner the use of the room intended for the Magistrate's Court unless the court is then sitting."

Pending cases, etc.

2. This act shall not apply to cases pending or begun before the date of its coming into force, nor to accidents occurring before such date.

Coming into force.

3. This act shall come into force on the day which it may please the Lieutenant-Governor in Council to fix by proclamation.